



# CIGARETTE AND TOBACCO PRODUCTS TAX ANNOTATIONS



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**AFFIXING OF STAMPS OR METER IMPRESSIONS OUT-OF-STATE—  
Regulation 4099**

**AMOUNT OF BOND—Regulation 4018**

*See also Bond of Distributor.*

**APPLICATION FOR CREDIT PURCHASES—Regulation 4058**

**APPLICATION FORM—Regulation 4102**

*See also Cigarette Transporter's Permit.*

**AUTHORIZATION FOR CREDIT PURCHASES—Regulation 4049**

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**CASH SALES OF TAX INDICIA—Regulation 4057**

**CIGARETTE—Regulation 4001**

**Smokeless Cigarettes.** “Flavor”, a brand of smokeless cigarette which is made in part of tobacco or a tobacco derivative, is not designed for smoking and is therefore not a cigarette as defined in Revenue and Taxation Code Section 30003. 05/27/86.

**CIGARETTES FOR HOSPITALIZED VETERANS—Regulation 4082**

**CIGARETTE TRANSPORTER’S PERMIT—Regulation 4101**

**CLAIM FORMS—Regulation 4064**

**COMMON CARRIER DELIVERY REPORTS—Regulation 4041**

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**Sale of Cigarettes to Indians.** A non-Indian cigarette distributor who sells cigarettes to an Indian tribe or an Indian residing in Indian country must pay the cigarette tax through the application of stamps to the cigarette packs regardless of whether the cigarettes are for resale to enrolled Indians residing in Indian country. 3/16/99. (2000-1).

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## PARTNERSHIP

**Partnership Liability.** The Uniform Partnership Act imposes joint and severally liability on all partners for wrongful acts or omissions of one partner, provided that partner is acting in the ordinary course of business of the partnership. If a partnership exists, then all of the general partners are liable for the debts of the partnership. It does not matter that one of the partners is a dormant or silent partner. 1/27/97.

**Prosecuting Jurisdiction.** Local law enforcement agencies do not prosecute and, therefore are not “prosecuting jurisdictions” entitled to the penalty allocation provided by Revenue and Taxation Code Section 30474 for the cost of prosecution. However, where such agencies have played a significant role in the successful prosecution of a case, the Board is not prohibited from informing such agencies that they can request a part of the prosecutor’s allocation and/or recommending such allocation sharing.

The Office of the Attorney General can be considered to be the local prosecuting jurisdiction entitled to the penalty allocation where it, and not the district attorney, prosecutes the tax evasion case. 2/23/95.

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**RATE OF TAX; TOBACCO PRODUCTS—Section 30123(b)**

**Wholesale Cost of Manufactured Cigar.** When a retailer purchases raw goods at wholesale and manufactures cigars on the retailer's premises, the retailer is selling the cigar as the finished product. As such, a tax base must be determined which reflect not only the cost of the raw goods, but also labor, overhead, and markup. The wholesale cost of the manufactured cigar is computed by determining the wholesale cost of a cigar of similar size and quality that is available for purchase at the wholesale level. This figure is used as the fair market value of the cigars made at the retailer's premises. 2/7/96.  |

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## SEIZED INVENTORY

**Retail Stock.** Untaxed cigarette and tobacco products held in retail stock and seized as part of investigations of tax evasion are subject to the Cigarette and Tobacco Products Tax. Generally, retail stock includes inventory located at the taxpayer's retail place of business such as product displayed for retail sale or stored beneath sales counters in back room offices, or in any other place on the premises of the retail establishment.

Generally, product found outside of the retail business, including product found at the taxpayer's residence, off-site public storage facilities or "in transit," is not considered part of retail stock.

Product seized in such small quantities as to clearly be for personal use is not considered part of retail stock. 7/18/97.

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**TOBACCO PRODUCTS—Section 30121(b)**

**Measure of Tax for Tobacco Products.** The rate of the tobacco products tax is required by Revenue & Taxation Code Section 30123 to be “based on the wholesale cost of these products . . . which is equivalent to the combined rate of tax imposed on cigarettes . . . ”. Since the calculated wholesale cost of cigarettes does not include the cost of incoming freight charges, the wholesale cost of tobacco products should also exclude freight. 4/20/89.

**Tobacco Products—Tobacco Content.** The Cigarette and Tobacco Products Tax applies to all forms of cigars, smoking tobacco, chewing tobacco, and snuff, regardless of the amount of tobacco they contain. In addition, the tax applies to any other articles or products which are made entirely of tobacco or contain at least 50 percent tobacco, excluding cigarettes. 9/27/96.

**Tobacco Products—Chewing Gum.** Chewing gum containing any tobacco is chewing tobacco and is therefore subject to the Cigarette and Tobacco Products Tax. 9/27/96.

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